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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,323	01/26/2004	Yoshiyuki Shimamura	1232-5260	9424
27123	7590	11/24/2006	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			UHLENHAKE, JASON S	
			ART UNIT	PAPER NUMBER
			2853	

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,323

Applicant(s)

SHIMAMURA, YOSHIYUKI

Examiner

Jason Uhlenhake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada et al (U.S. Pat. 6,359,701) in view of Arakawa et al (U.S. Pat. 6,067,101) and Shimamura et al (U.S. Pat. 6,652,063).

Yamada et al discloses:

- ***regarding claim 7***, a printing apparatus which needs to periodically execute maintenance operation after activation (Column 18, Lines 24 – 26)
 - counting means, for counting time on the basis of an internal time (Column 18, Lines 34 – 46)
 - designating execution of the maintenance operation on the basis of the internal time (Column 18, Lines 24 – 26)
 - clearing the flag after the refreshing step (Column 48, Lines 12 – 21),
- Yamada et al discloses a hard power-off clears all the stored times, and a hard power-on resets **all** the flags and variables

Yamada et al does not disclose expressly

- ***regarding claims 7***, counting means is operated by power supplied from a battery; counting means having a power abnormal inside counting means

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- refreshing the internal time with a predetermined time when it is determined that the battery abnormality has occurred based on the result from the determining means
- setting a flag in a register when an abnormality occurs in a battery; determining whether the battery abnormality has occurred based on the status of the flag set in the flag setting step

Arakawa et al discloses

- ***regarding claim 7***, flag setting means for setting a flag in a register when a battery abnormality has occurred; determining means for determining whether the battery abnormality has occurred based on the status of the flag set in the flag setting means (Column 15, Lines 40 – 47), for the purpose of allowing a quick and reliable judgment for detecting the voltage of the battery

Shimamura et al discloses:

- ***regarding claim 7***, counting means is operated by power supplied from a battery; counting means having a power abnormal inside counting means (Figure 13, Column 5, Lines 5 – 13; Column 12, Lines 15-22); refreshing means for refreshing the internal time with a predetermined time when it is determined that the battery abnormality has occurred based on the result from the determining means (Figure 12; Column 11, Lines 49 – 59), for the purpose of making a recovery operation for discharge failure in an adequate manner and at a proper timing.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to incorporate the teaching of counting means is operated by

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power supplied from a battery; refreshing the internal time with a predetermined time when it is determined that the battery abnormality has occurred based on the result from the determining means; a flag in a register when an abnormality occurs in a battery; determining whether the battery abnormality has occurred based on the status of the flag set in the flag setting step as taught by Arakawa et al and Shimamura et al into the device of Yamada et al, for the purpose of allowing a quick and reliable judgment for detecting the voltage of the battery and making a recovery operation for discharge failure in an adequate manner and at a proper timing.

Response to Arguments

Applicant's arguments filed 9/13/2006 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The test for combining references is not what the individual references themselves suggest but rather what the combination of the disclosures taken as a whole would suggest to one of ordinary skill in the art (*In re McLaughlin*, 170 USPQ 209 (CCPA 1971)). A reference is to be considered not only for what it expressly states, but

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for what it would reasonably have suggested to one of ordinary skill in the art (In re DeLisle, 160 USPQ 806 (CCPA 1969)).

Conclusion

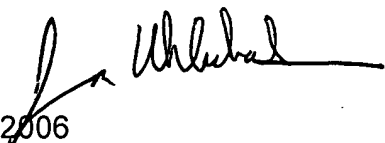
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Uhlenhake whose telephone number is (571) 272-5916. The examiner can normally be reached on Monday - Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSU

November 16, 2006



STEPHEN MEIER
SUPERVISORY PATENT EXAMINER